THE BOND BUYER
THE DAILY NEWSPAPER OF PUBLIC FINANCE

Panelists: P3s to Become a More Popular Mode of Financing

Bond Buyer | Wednesday, September 17, 2008

By Audrey Dutton

State and regional transportation agencies will turn increasingly to public-private partnerships as a financing mechanism for highway, bridge, and transit projects as federal grants grow less certain in the near future, and as Congress searches for stable funding for the long-term, market participants and officials said this week at a P3 conference here.

Turmoil on Wall Street permeated the discussions on P3s by panelists who came from all sides of public-private partnerships, including Lehman Brothers, the Carlyle Group, federal and state transportation officials, and construction firms from several states and foreign countries.

"Long-term policy decisions about whether to add P3s to the toolbox should not be affected by short-term shifts in the market," said Allan Marks of Milbank, Tweed, Hadley and McCloy LLP.

Edward Fanter, a Lehman vice president and conference panelist, said that now is the time for a public agency to start launching its P3 program - instead of waiting a few years - if a project is coming up in 18 months.

"There seems to be a lot of equity funds starting up," Fanter said. "People tend to like these types of [infrastructure] assets because they see them. They drive on roads ... they drive over that bridge, they fly into that airport. It's not a nuclear reactor."

But not all outlooks were as pro-P3.

Rep. Peter DeFazio, D-Ore., chairman of the highways and transit subcommittee of the House Transportation and Infrastructure Committee, told conference attendees yesterday morning that he wants to see P3s treated like regulated utilities in the future.

He said he would like public control over such things as routes and toll increases, and hopes to put "some guidance" on P3s into the federal transportation bill that will replace the current law, which is set to expire next fall. In exchange for some federal oversight, DeFazio said, states would be able to use federal dollars for planning and possibly for design of P3 projects.

Under a regulated utility model, investors could get a 10% annual return on the P3, which is "not bad," he said.

DeFazio said he believes public-private partnerships "got off to a bad start in the U.S." because of a "neocon model" guiding Bush administration transportation officials.

He cited the Cintra-Macquarie joint takeover in 2006 of the Indiana Toll Road as an example of the country's flawed P3 model, saying the tollway had "no claimed efficiencies." He also slammed the concept of a non-compete clause that prevents public entities from building new roads in a certain proximity to a P3 road - a clause that would not be part of a regulated-utility model for P3s.

DeFazio also denied that lawmakers would pass a 25-cent gas tax increase to protect against shortfalls in the highway trust fund, which relies almost entirely on gas tax revenues, and instead said that he approves of the U.S. borrowing to pay for infrastructure.

Former U.S. Department of Transportation inspector general Kenneth Meade said his "bottom-line prognosis for [P3s] is ... positive, with some caveats."

Meade said the federal deficit is going to eclipse most other issues during the next presidential administration, regardless of which party takes office. He predicted the $8 billion highway trust fund fix signed into law by the president this week - a transfer of Treasury funds into the highway account to prevent insolvency in the fund through next September - actually will last only "for about 10 months" rather than a year.

Lawmakers will need to search for "supplemental hybrid ways of financing new infrastructure," he said, but "Congress is not going to roll over and say go for it" with regard to P3s.

He said it is likely Congress will try to regulate P3s in such areas as tolling and maintenance.

John Flaherty of the Carlyle Group said he expects the P3 idea to continue germinating in Washington and to appear in lawmakers' agenda during the next two years, but not this year.

He said that $400 billion of investment is waiting to finance infrastructure, but states are still looking at bonds and the federal government as funding sources.

The conference included earlier remarks by the U.S. DOT's acting under secretary for policy, Tyler Duvall, who said federal discretionary grants should be shifted to states willing to try public private partnerships.

"The federal government's got enormous ability to drive state and local policy," Duvall said.

He reiterated the department's recent proposal for a transportation financing overhaul that would emphasize private sector investment, using mechanisms such as congestion pricing and lifting the current $15 billion private activity bond cap on transportation projects. The DOT has $18 billion worth of proposals in the queue for PABs, he said. But he added that "pockets of reform" are probably the most likely outcome of the department's proposal.

Duvall put a silver lining on Wall Street's worsening condition, saying that "infrastructure projects are still generating a huge backflow of investment opportunities."

© 2008 The Bond Buyer and SourceMedia Inc., All rights reserved. Use, duplication, or sale of this service, or data contained herein, except as described in the subscription agreement, is strictly prohibited. Trademarks page.

Client Services 1-800-221-1809, 8:30am - 5:30pm, ET

For information regarding Reprint Services please visit: http://license.icopyright.net/3.7745?icx_id=20080916S6EPJU7B